

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

February 10, 1998

DIVISION ONE

B114346 People (Not for Publication)
v.
Karriem

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B107237 Cox (Not for Publication)
v.
McDonnell Douglas Corporation

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Masterson, J.

B107037 Ricardo Patino (Not for Publication)
v.
American Protective Services, Inc.

We affirm the judgment. APS is entitled to its costs on appeal.

Ortega, J.

We concur: Spencer, P.J.
Masterson, J.

February 10, 1998-Continued

DIVISION ONE (Continued)

B091526 Tina M. Del Prete (Not for Publication)
v.
Robert P. Famularo

Wife's request that we issue sanctions for a frivolous appeal is denied. The judgment is affirmed.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Masterson, J.

B106812 People (Not for Publication)
v.
John Joey Jones

We modify the judgment to reflect that the enhancement for assault weapon use be modified to personal firearm use. We remand for resentencing on that enhancement. After imposing the new enhancement term, the trial court is ordered to prepare a new abstract, reflecting our modification, the new enhancement term, and that the count 2 sentence is concurrent with that on count 1. The trial court is ordered to forward the new abstract to the Department of Corrections. In all other respects, we affirm the judgment.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Masterson, J.

DIVISION TWO

B113819 In re Robin Deon M. (Not for Publication)
People
v.
Robin Deon M.

The Court:

The order continuing wardship is affirmed.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

February 10, 1998-Continued

DIVISION TWO (Continued)

B108721 People (Not for Publication)
v.
Paul R. Popielski

The Court:

The judgment is affirmed.

Boren, P.J., Fukuto, J., Zebrowski, J.

B108073 People (Not for Publication)
v.
Arthur Torlucci

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Zebrowski, J.

B106735 Jenifer Cochagne-Olsen (Not for Publication)
v.
Board of Psychology et al.

The judgment of the trial court is affirmed. Each party is to bear their respective costs on appeal.

Nott, J.

We concur: Boren, P.J.
 Zebrowski, J.

DIVISION TWO (Continued)

B097298 Gary M. Devore (Not for Publication)
 v.
 Maria Cole et al.

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Zebrowski, J.

B109718 T-Merr Investment & Dev. Co. (Not for Publication)
 v.
 Ronald T. Hudson, Jr. et al.

The judgment is affirmed. T-Merr is awarded costs on appeal. The matter is remanded to the trial court for consideration of an award to T-Merr for attorney fees on appeal and for that further court appearance.

Nott, J.

We concur: Boren, P.J.
 Zebrowski, J.

B105452 Beverly Burrell et al. (Not for Publication)
 v.
 Harold Markowitz

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Fukuto, J.

DIVISION THREE

[illegible]

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

B101606 City of Vernon (Not for Publication)
v.
Central Basin Mun. Water Dist.

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

B113661 State of California (Certified for Publication)
v.
Superior Court, Los Angeles County
(Patrick G. Woosley, r.p.i.)

The alternative writ is discharged. A writ of mandamus is hereby issued ordering the trial court to vacate its previous orders certifying the class and to issue new and different orders consistent with this opinion. Each party to bear own costs.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

February 10, 1998-Continued

DIVISION FOUR

B110576 People (Not for Publication)
v.
Fisher

The Court:

The judgment is affirmed.

Vogel (C.S.), P.J., Hastings, J., Baron, J.

B107109 People (Not for Publication)
v.
Anderson

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Baron, J.

B101744 Davis et al. (Certified for Publication)
v.
Harris
Department of Real Estate

The judgment is reversed. The parties are to bear their own costs on appeal.

Epstein, Acting P.J.

We concur: Hastings, J.
Baron, J.

February 10, 1998-Continued

DIVISION FOUR (Continued)

B105915 Cooper (Not for Publication)
v.
Mountains Recreation and Conservation Authority et al.
Canyon Oaks Estates

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

B110346 Sidley et al. (Not for Publication)
v.
Columbia Pictures, Inc.

We affirm the judgment. Respondent is to have costs on appeal other than attorney's fees. Respondent's counsel is to have \$5,000 attorney's fees from appellant's counsel. Pursuant to section 6089, subdivision (b) of the Business and Professions Code, the clerk is directed to notify the State Bar of this sanction.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

DIVISION FIVE

Court convened at 9:00 A.M.

Present: Turner, P.J., Grignon, J., Armstrong, J., and Jed H. Belcher, Deputy Clerk.

Each of the following:

B108131 People v. Flores
B106897 People v. Bowersock
B110114 People v. Roman
B112394 People v. Shelton

Argument waived, cause submitted.

B108489 Clifton Crosby
 v.
 Alice Marie Lovett

Merits:

Argued by Benjamin Robinson for appellant and by Albert C. Garber for respondent. Cause submitted.

B110130 The People
B118572 v.
 Julius Cox

Merits:

Argued by David B. Harrison for appellant and by Rama R. Maline, deputy attorney general for respondent. Cause submitted.

B109275 Barry Martin Schleider
 v.
 Fred N. Hayes

Merits:

Argued by Daniel D. White for appellant and by Thomas A. Greco for respondent. Cause submitted.

DIVISION FIVE (Continued)

B109980 Jonathan Louis International Ltd. Inc.
 v.
 State Compensation Insurance Fund

Merits:

Argued by Duke L. Peters for appellant and by James M. Burgess for respondent. Cause submitted.

B107014 Celinda Tabucchi et al.
 v.
 Dorothy Stivers, as Trustee, et al.

Merits:

Argued by Celinda Tabucchi for appellants and by Carol A. Churchill for respondents. Cause submitted.

B096708 Martin Marietta Corporation,
 v.
 Certain Underwriters at Lloyds London,

Merits:

Argued by Martin D. Katz for appellant and by Patrick Cathcart for respondent. Cause submitted.

The court recessed at 11:07 A.M.

The Court reconvened at 11:15 A.M.

Present: Turner, P.J., Grignon, J., Armstrong, J., and Jed H. Belcher, Deputy Clerk.

Each of the following:

B099721 145 N. Robertson v. Chien
B112262 People v. Miguel H.
B112079 In re Estate of Genaro

Argument waived, cause submitted.

DIVISION FIVE (Continued)

B111950 Carl V. Jones
 v.
 Los Angeles County Metropolitan Transportation

Merits:
Argued by Carl V. Jones, appellant in propria persona and by Troy C. Lee
for respondent. Cause submitted.

B111890 County of Los Angeles
 v.
 Patricia E.

Merits:
Argued by Nancy Kelso for appellant and by Gary Gross, deputy county
counsel for respondent. Cause submitted.

B108564 Richard Salant
 v.
 Spensley, Horn, Jubas & Lubitz, et al.

Merits:
Greg R. Woodburn for appellant and by Williams John Rea, Jr. for
respondent. Cause submitted.

B111130 Carmen Manedeg
 v.
 Karen Sunde

Merits:
Jams V. Jordan for appellant and by Scott P. Ward for respondent. Cause
submitted.

The court recessed at 12:00 P.M.

The Court reconvened at 12:05 P.M.

Present: Turner, P.J., Armstrong, J., Godoy Perez, J. and Jed H. Belcher, Deputy Clerk.

DIVISION FIVE (Continued)

Each of the following:

B110137 People v. Campos
B109423 People v. Arrington
B111783 People v. Hartman
B113434 People v. Garcia
B109237 People v. Masterson
B111598 People v. Hill
B109299 People v. Ordaz and Savala
B110561 People v. Appleberry
B112055 People v. Fields

Argument waived, cause submitted.

B117437 Wayne Keith Butler
v.
Los Angeles Superior Court
(The People, r.p.i.)

Merits:

Argued by Alex Ricciardulli, deputy public defender for petitioner and by William Woods, deputy attorney general for real party in interest. Cause submitted.

The court recessed at 12:12 P.M.

The Court reconvened at 1:00 P.M.

Present: Turner, P.J., Armstrong, J., Godoy Perez, J. and Jed H. Belcher, Deputy Clerk.

Each of the following:

B114806 DCS v. Loretta K.
B107928 Esparza v West

Argument waived, cause submitted.

DIVISION FIVE (Continued)

B103900 Joe Torres et al.
 v.
 Martin Krell

Merits:

Argued by Curtis Cole for appellant and by Charlotte Costan for respondent. Cause submitted.

B106467 Ed Artis & Associates
 v.
 Jeffrey Preach

Merits:

Argued by Roger B. Coven for appellants and by Timothy J. Trager for respondents. Cause submitted.

B104583 Geraldine Goodstone
 v.
 Southwest Airline Co. et al.
 Nikki Tolt et al.

Merits:

Argued by Melinda W. Ebelhar for appellants and by W. Chelsa Chen, Steven D. Hofer and Gary D. Wellington for respondents. Cause submitted.

B108555 Thomas A. Bockrath
 Aldrich Chemical Company, Inc. et al.

Merits:

Argued by James W. Parker for appellants and by Richard Willard and Rebecca R. Weinreich for respondents. Cause submitted.

DIVISION FIVE (Continued)

B113808 Barbara Brock et al.
 v.
 Air Products & Chemicals, Inc. et al.

Merits:

Argued by James W. Parker for appellants and by Richard Willard and Rebecca R. Weinreich for respondents. Cause submitted.

B113809 Robert J. Till, et al.
 v.
 Air Products & Chemicals, Inc. et al.

Merits:

Argued by James W. Parker for appellants and by Richard Willard and Rebecca R. Weinreich for respondents. Cause submitted.

The court adjourned at 3:55 P.M.

DIVISION SIX

Court convened at 9:00 A.M.

Present: Stone, P.J., Gilbert, J., Yegan, J., Coffee, J., and G. Bents, Deputy Clerk.

B116602 Townsend v. Santa Barbara Co. Superior Court (EMC Mortgage)

Argument waived, cause submitted.

DIVISION SIX (Continued)

B103251 Woodward
 v.
 Kaiser Permanente

Merits:

Argued by Charles T. Mathews for appellant and by Elizabeth Anthony for respondent. Cause submitted.

B105480 Abdool
 v.
 Jackson

Merits:

Argued by William D. Evans for appellant and by Steve Cochran for respondents. In open court service of respondents' declaration re sanctions is acknowledged and the court grants permission for the declaration to be filed. Cause submitted.

B114528 Wood
 v.
 Workers' Compensation Appeals Board

Review:

Presented by David G. Schumaker for petitioner and by John D. Moloney for respondent Republic Indemnity Co. Presentation of argument previously waived by respondent Workers' Compensation Appeals Board. Cause submitted.

B098955 Grewal
 v.
 Department of Water & Power

Merits:

Argued by Mark Ellis Singer for appellant and by Donna Weisz Jones for respondent. Cause submitted.

DIVISION SIX (Continued)

B115071 Long
 v.
 Workers' Compensation Appeals Board

Review:
Presented by George J. Gajdos for appellant and by Don E. Clark for respondent. Cause submitted.

B106480 Wells Fargo Bank
 v.
 Williams

Merits:
Argued by Gina M. Calvelli for appellant and by John C. Orr for respondent Wells Fargo and by Philip W. Marking for respondents Shumway et al. Argument waived by respondent Williams. Cause submitted.

Court recessed at 10:28 A.M.

Court reconvened at 10:45 A.M.

Present: Stone, P.J., Yegan, J., Coffee, J., and G. Bents, Deputy Clerk.

B108451 Udaeta
 v.
 Singh Care

Merits:
Argued by Richard Hamlish for appellant and by Robert Berke for respondent. The court states for the record that both parties were well aware of the issue of sanctions being reviewed before the court and have had an opportunity to speak to the issues of sanctions. In the event the court does issue sanctions, there is considerable evidence warranting it. Cause submitted.

DIVISION SIX (Continued)

Gilbert, J. assumes to the bench.

Stone, P.J. leaves the bench.

B098709 Greve
 v.
 Bortz

Merits:

Argued by Steven J. Kleinfeld for appellant, William A. Bossen for respondent Angeles Chemical Co., Garth Goldberg for respondent Burbank Paint, James M. Harris for respondent Union Carbide and by Jeffrey N. Stewart for respondent Parallel. Cause submitted.

B103714 City of Oxnard
 v.
 Oxnard Town Center

Merits:

Argued by Harry R. Hibbs for appellant and by Kenneth B. Bley for respondent. Cause submitted.

Court recessed at 12:40 P.M.

Court reconvened at 1:30 P.M.

Present: Stone, P.J., Gilbert, J., Yegan, J., Coffee, J., and G. Bents, Deputy Clerk.

B110278 Glanzner vs. Houdeshell

Argument waived, cause submitted.

DIVISION SIX (Continued)

B111642 Sanchez
 v.
 Santa Barbara School District

Appearances:

Richard D. Oppenheim for respondent Santa Barbara County Education Office and Louis E. Marino, Jr. for respondent Santa Barbara School District. There being no appearance on behalf of appellant. Argument waived, cause submitted.

B112752 Hellweg
 v.
 Cassidy

Merits:

Argued by Glen M. Reiser for appellant and by Stephanie J. Shulman for respondent. Cause submitted.

B112767 Owens
 v.
 Udd

Merits:

Argued by Robert F. Peterson for appellant and by Robert B. Locke for respondent. Cause submitted.

B113473 Patterson
 v.
 Ventura County

Merits:

Argued by Philip Erickson for respondent and argument previously waived by appellant. Cause submitted.

DIVISION SIX (Continued)

B115832 Fukutomi
 v.
 Ventura Co. Superior Court (Taylor)

Mandate:
Presented by John F. Shellabarger for petitioner and by George E. Taylor
for real party in interest. Cause submitted.

B112361 Estate of
 v.
 Olsen

Merits:
Argued by Ronald L. Colton for appellant and by Bruce Fuller for
respondent. Cause submitted.

B114581 Tougas
 v.
 Office Products Group

Merits:
Argued by Glenn J. Campbell and Alan R. Templeman for appellant and by
Jeffrey Held for respondent. Cause submitted.

B109860 Hamilton
 v.
 Gordon

Merits:
Argued by A.L. Renick for appellant, by Jonathan Levitan for respondent
Skolnick and by John M. Anderson for respondents Eggerman et al. Cause
submitted.

Yegan, J. leaves the bench.

February 10, 1998-Continued

DIVISION SIX (Continued)

B113476 National Association of Government Employees
v.
Rupert

Merits:

Argued by Robert A. Cantore for appellant and by Victoria C. Jordan for respondent. Cause submitted.

Court adjourned at 3:20 P.M.

DIVISION SEVEN

[illegible]

The abstract of judgment is ordered modified to show the sentences and enhancements on counts II and III are stayed (not concurrent). As modified, the judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

B110443 People (Not for Publication)
v.
Jackson

The judgment is modified by striking all of the Penal Code section 667.5, subdivision (b) enhancements; striking the \$400 restitution fine imposed on January 10, 1997; and reinstating the original \$200 restitution fine imposed on August 4, 1994, with any amount still owed on the fine to be paid to the Restitution Fund. As modified, the judgment is affirmed.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

DIVISION SEVEN (Continued)

B105313 People (Not for Publication)
v.
Bates et al.

The convictions of all appellants are affirmed. The one year subordinate sentences against Stanley and Tran for the robbery of Hupp are stayed, thus reducing their aggregate terms of imprisonment from 15 years 4 months to 14 years 4 months. The abstract of judgment as against Stanley is modified to reflect that the subordinate sentence of two years for false imprisonment of Gervais was stayed, not imposed. The judgment as so modified is affirmed.

Neal, J.

We concur: Lillie, P.J.
Woods, J.

B112641 People (Not for Publication)
v.
Carter

The judgment is modified to provide the two terms imposed of 25 years to life are to be served consecutively to one another and to the five year term imposed for the prior serious felony enhancement. The award for precommitment conduct credits is modified to provide that appellant is entitled to 175 days of aggregate credit, consisting of 117 days of custody credit and 58 days of conduct credit. As modified, the judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

February 10, 1998-Continued

DIVISION SEVEN (Continued)

B110726 Baltazar (Not for Publication)
v.
Williams

For the reasons set forth above, the judgment is affirmed. Costs of appeal are awarded to respondents.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

B114425 People (Not for Publication)
v.
Leonard A., a minor

The order under review is affirmed.

Neal, J.

We concur: Lillie, P.J.
Johnson, J.

[illegible]

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

February 10, 1998-Continued

DIVISION SEVEN (Continued)

[illegible]

The judgment is affirmed.

Woods, J.

We concur: Johnson, Acting P.J.
 Neal, J.

B109817 People
v.
Franklin

Filed order denying petition for rehearing.

B109865 Daley et al.
v.
California Public Employees Retirement System

Filed order denying petition for rehearing.

B111033 People
 v.
 Boyden

Filed order denying petition for rehearing.